

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN THE MATTER OF THE)	No. 63087-3-I
PERSONAL RESTRAINT OF)	
)	DIVISION ONE
EARL MITCHELL GARLIN, III,)	UNPUBLISHED OPINION
)	
Petitioner.)	FILED: June 8, 2009

PER CURIAM. Earl Garlin, III, filed this personal restraint petition challenging the 60-month firearm enhancement imposed on his conviction for second-degree murder in King County No. 02-1-04807-9. He argues this sentence enhancement is not justified based on the information contained in the judgment and sentence. We agree, and grant the petition.

Garlin was convicted by plea of murder in the second degree. At sentencing, the trial court imposed a 130-month sentence on the murder. The sentence was ordered to be served consecutively to a 60-month weapon enhancement for a total of 190 months of confinement.

Garlin contends that the trial court erroneously sentenced him to serve a 60-month firearm enhancement. Given the findings entered by the court, Garlin argues he should have received a sentence enhancement of no more than 24 months.

The State admits that the judgment and sentence “mistakenly” indicates that Garlin was “armed with a deadly weapon other than a firearm” even as it maintains that the 60-month firearm enhancement was properly imposed. We reject the State’s argument that Garlin’s judgment and sentence is “valid on its face”

because the court can consider the plea paperwork which shows that the defendant admitted being armed with a firearm at the time he committed the murder. While it is true that plea documents may sometimes be used to establish that a judgment and sentence is facially invalid, see In re Pers. Restraint of Stoudmire, 141 Wn.2d 342, 354, 5 P.3d 1240 (2000), that does not mean the opposite is always true. Allowing extraneous documents to cure an obvious defect on the face of the judgment and sentence is problematic.

Regardless of how the anomaly is characterized, the problem of the relevant court findings not matching the type of sentence enhancement imposed is apparent on the face of the judgment and sentence. Accordingly, the judgment and sentence “without further elaboration evidences infirmities.” In re Pers. Restraint of Thompson, 141 Wn.2d 712, 718, 10 P.3d 380 (2000).

By pointing out the anomaly in the judgment and sentence, Garlin has demonstrated he is entitled to a correction of the judgment and sentence with respect to the findings entered by the sentencing court. The judgment and sentence should accurately reflect the defendant’s total sentence and the factors upon which that sentence is based.

This personal restraint petition is granted only insofar as Garlin has shown an inconsistency on the face of the judgment and sentence that must be corrected.

The matter is remanded to King County Superior Court for further proceedings consistent with this opinion.

For the court:

Dwyer, A.C.J.

Cox, J.

Schneider, C.J.